

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

AIDAN S., BY AND THROUGH PARENT AND NATURAL GUARDIAN CRYSTAL WINTERBOTTOM, AND CRYSTAL WINTERBOTTOM IN HER OWN RIGHT v. ARGIE FAFALIOS, SABOLD ELEMENTARY SCHOOL, AND SPRINGFIELD SCHOOL DISTRICT	CIVIL ACTION NO. 19-256
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**ORDER ON DEFENDANTS' MOTION TO DISMISS
AND DEFENDANTS' MOTION TO STRIKE**

AND NOW, this 22nd day of April, 2020, upon consideration of Defendants Sabold Elementary School and Springfield School District's Motion to Dismiss the Second Amended Complaint under Federal Rules 12(b)(5) and 12(b)(6) (ECF 28), Plaintiffs' response (ECF 31), Defendants' Reply (ECF 34), and Plaintiffs' surreply (ECF 35), and for the reasons given in the accompanying Memorandum, it is hereby **ORDERED** as follows:

- Plaintiffs are ordered to file one of the following within 30 days: a Rule 4-compliant affidavit of service, or an affidavit of counsel explaining in detail, and with appropriate supporting documentation, what steps counsel took to serve the District Defendants and on what basis counsel believed service was timely accomplished. Defendants' Motion to Dismiss is **DENIED** without prejudice as to dismissal under Rule 12(b)(5). Defendants may file a new motion once Plaintiffs have filed one of the aforementioned affidavits, or 31 days after entry of the accompanying order.

- The remainder of Defendants’ Motion to Dismiss is GRANTED in part and DENIED in part, as follows:
 - GRANTED, with prejudice, as to Count VII, the dismissal of all claims against Sabold Elementary School, Count II as to the District Defendants, and Plaintiffs’ prayer for punitive damages against the District Defendants;
 - GRANTED, without prejudice, as to the dismissal of Counts IV and VI; and
 - DENIED as moot as to the dismissal of Count V.
- All references to Fafalios’s alleged deviant or sexually perverse intent, or sociopathy, however phrased, and all references to entirely unrelated tragedies such as the Sandy Hook school shooting and the Catholic Church’s child sex abuse scandal, are stricken. Plaintiffs must file a conforming Third Amended Complaint within thirty days.¹
- Plaintiffs have leave to amend Counts IV and VI in the Third Amended Complaint.

Additionally, upon consideration of Defendants’ Motion to Strike (ECF 37), the Motion to Strike is DENIED.

BY THIS COURT:

s/ Michael M. Baylson

MICHAEL M. BAYLSON
United States District Court Judge

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¹ Certain statements on pages 33, 40, and 44 of the Second Amended Complaint contain the minor Plaintiff’s full last name. Plaintiffs must take prompt steps to replace the copy of the Second Amended Complaint on PACER with a redacted copy. See Local Rules Civ. P. 5.1.2(12)(b) (“[N]ames of minor children should be modified or partially redacted in electronically filed documents.”).